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9
10 **BEFORE THE**
RESPIRATORY CARE BOARD
11 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

12 In the Matter of the Accusation Against:

Case No. 1H 2008 124

13 MELISSA RENEE BRADLEY
6544 Murietta Avenue
14 Van Nuys, California 91401

A C C U S A T I O N

15 Respiratory Care Practitioner License No. 13285

16 Respondent.

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18 Complainant alleges:

19 PARTIES

20 1. Stephanie Nunez (Complainant) brings this Accusation solely in her
21 official capacity as the Executive Officer of the Respiratory Care Board of California,
22 Department of Consumer Affairs (Board).

23 2. On or about January 26, 1990, the Board issued Respiratory Care
24 Practitioner License Number 13285 to Melissa Renee Bradley (Respondent). This license was in
25 full force and effect at all times relevant to the charges brought herein and will expire on
26 December 31, 2009, unless renewed.

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JURISDICTION

3. This Accusation is brought before the Board under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

4. Section 3710 of the Code states: “The Respiratory Care Board of California, hereafter referred to as the board, shall enforce and administer this chapter [Chapter 8.3, the Respiratory Care Practice Act].”

5. Section 3718 of the Code states: “The board shall issue, deny, suspend, and revoke licenses to practice respiratory care as provided in this chapter.”

6. Section 3750 of the Code states:

“The board may order the denial, suspension or revocation of, or the imposition of probationary conditions upon, a license issued under this chapter, for any of the following causes:

“... ”

“(d) Conviction of a crime that substantially relates to the qualifications, functions, or duties of a respiratory care practitioner. The record of conviction or a certified copy thereof shall be conclusive evidence of the conviction.

“... ”

7. Section 3752 of the Code states:

“A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge of any offense which substantially relates to the qualifications, functions, or duties of a respiratory care practitioner is deemed to be a conviction within the meaning of this article. The board shall order the license suspended or revoked, or may decline to issue a license, when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the

1 accusation, information, or indictment.”

2 8. California Code of Regulations, Title 16, section 1399.370, states:

3 “For the purposes of denial, suspension, or revocation of a license, a crime or act
4 shall be considered to be substantially related to the qualifications, functions or duties of
5 a respiratory care practitioner, if it evidences present or potential unfitness of a licensee to
6 perform the functions authorized by his or her license or in a manner inconsistent with the
7 public health, safety, or welfare. Such crimes or acts shall include but not be limited to
8 those involving the following:

9 “ . . .

10 “(c) Conviction of a crime involving driving under the influence or reckless
11 driving while under the influence.

12 “ . . . ”

13 COST RECOVERY

14 9. Section 3753.5, subdivision (a) of the Code states:

15 “In any order issued in resolution of a disciplinary proceeding before the board,
16 the board or the administrative law judge may direct any practitioner or applicant found to
17 have committed a violation or violations of law to pay to the board a sum not to exceed
18 the costs of the investigation and prosecution of the case.”

19 10. Section 3753.7 of the Code states:

20 “For purposes of the Respiratory Care Practice Act, costs of prosecution shall
21 include attorney general or other prosecuting attorney fees, expert witness fees, and other
22 administrative, filing, and service fees.”

23 11. Section 3753.1, subdivision (a) of the Code states:

24 “An administrative disciplinary decision imposing terms of probation may
25 include, among other things, a requirement that the licensee-probationer pay the monetary
26 costs associated with monitoring the probation.”

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1 CAUSE FOR DISCIPLINE

2 (Conviction of a Crime)

3 12. Respondent is subject to disciplinary action under sections 3750,
4 subdivision (d), and 3752 of the Code, and California Code of Regulations, Title 16, section
5 1399.370, subdivision (c), in that she was convicted of a crime substantially related to the
6 qualifications, functions or duties of a respiratory care practitioner. The circumstances are as
7 follows:

8 A. On or about January 31, 2008, Los Angeles Police Officers of the Van
9 Nuys Station responded to a report of a driving under the influence (DUI) traffic
10 collision. While interviewing Respondent, the one of the police officers smelled an
11 overwhelming odor of alcohol on her breath. The officer noticed that Respondent's face
12 was very flushed, her eyes were bloodshot and watery, and her speech was slurred. When
13 asked if she had been drinking, Respondent admitted she had two glasses of Vodka that
14 morning. She failed to successfully complete the field sobriety tests. Respondent was
15 arrested for driving under the influence of alcohol. While one of the officers was reading
16 the chemical test admonition to Respondent, she stated that she had been very depressed
17 lately and had taken some anti-depressant medication. The results of her breath test
18 indicated her blood alcohol content was .24%.

19 B. On or about February 8, 2008, in Los Angeles County Superior Court
20 Complaint No. 8VY00823, Respondent was charged with driving under the influence of
21 alcohol or drugs, in violation of Vehicle Code section 23152, subdivision (a), a
22 misdemeanor (Count 1), driving with .08% or higher blood alcohol, in violation of
23 Vehicle Code section 23152, subdivision (b), a misdemeanor (Count 2), and having no
24 proof of car insurance, in violation of Vehicle Code section 16028, subdivision (a), an
25 infraction (Count 3).

26 C. On or about February 29, 2008, pursuant to a negotiated plea agreement,
27 Respondent was convicted upon her plea of nolo contendere to driving with .08% or
28 higher blood alcohol (Count 2). Proceedings were suspended, and Respondent was

1 placed on probation for three years on a number of terms and conditions, including: pay
2 fines and assessments of \$1,713.00 or serve 13 days in county jail; perform 13 days of
3 Cal Trans (with credit for 2 days); complete a nine-month licensed first-offender alcohol
4 program; make restitution to the victim; attend 26 Alcoholics Anonymous/Narcotics
5 Anonymous meetings twice a week (with credit for 11 meetings); and comply with all
6 standard DUI terms and conditions of probation. Counts 1 and 3 of the complaint were
7 dismissed.

8 PRAYER

9 WHEREFORE, Complainant requests that a hearing be held on the matters herein
10 alleged, and that following the hearing, the Respiratory Care Board issue a decision:

- 11 1. Revoking or suspending Respiratory Care Practitioner License Number
12 13285 issued to Melissa Renee Bradley;
- 13 2. Ordering Melissa Renee Bradley to pay the Respiratory Care Board the
14 costs of the investigation and enforcement of this case, and if placed on probation, the costs of
15 probation monitoring; and,
- 16 3. Taking such other and further action as deemed necessary and proper.

17 DATED: July 17, 2008

18
19 Original signed by Liane Zimmerman for:
20 STEPHANIE NUNEZ
21 Executive Officer
22 Respiratory Care Board of California
23 Department of Consumer Affairs
24 State of California
25 Complainant
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